

Date: 07 October 2024  
Our ref: 488872  
Your ref: EN010125



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**VIA WEBSITE ONLY**

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Dear Jo Dowling,

**Application by RWE Renewables UK Dogger Bank South (West) Ltd and RWE Renewables UK Dogger Bank South (East) Ltd for an Order Granting Development Consent for the Dogger Bank South Offshore Wind Farms – Rule 6 Letter**

Thank you for your consultation dated 24 September 2024. The following constitutes Natural England's formal statutory response to the Rule 6 Letter. Natural England is an Interested Party (IP) within the Examination of the Dogger Bank South (East and West) Offshore Wind Farm Project.

Please accept this letter as Natural England's comments in relation to the contents of the Rule 6 letter and an overview of how Natural England proposes to provide our statutory advice to the Examining Authority (ExA) during the Examination phase of the project.

**1. Overview of Natural England's engagement with the Examination**

Natural England recognises the significant contribution offshore wind NSIPs make to delivering the Government's green energy ambitions and net zero target, and the importance of our advice in securing positive environmental outcomes. Over the next 12 – 18 months, Natural England will be engaging with nine offshore wind NSIPs that have the potential to result in overlapping Examinations and/or pre-determination consultations. This is likely to place significant pressure on our resources and our ability to engage with the complex demands of these projects, particularly during Examinations.

Whilst Natural England remains committed to engaging in offshore wind NSIP Examinations and meeting our statutory obligations, we need to address the workload pressures presented by these overlapping projects. By undertaking a review of previous contributions to offshore wind NSIP Examinations, we have identified how we can best focus our advice to ensure we are able to engage efficiently and effectively, and have the greatest likelihood of achieving issue resolution. The approach we will be taking, which we have discussed with the Planning Inspectorate, will involve:

- Only attending Issue Specific Hearings by exception, and focusing our engagement where there is the greatest prospect of significant environmental risks being resolved.
- Having a narrower focus on our engagement in the Statement of Common Ground (SoCG) process, with a focus primarily on Principal Areas of Disagreement Summary Statements (PADSS) and our Risk & Issues Log.

In addition, we are also concerned that if there is submission of substantial new evidence, particularly if occurring late in the Examination process, this will put further pressure on Natural England's staff.

Whilst we seek to meet Examination timeframes wherever possible, our concern is that our ability to do this will be affected if significant additional information is submitted. In these circumstances, Natural England will use its best endeavours but we will provide advice to the Examining Authority on what we consider is achievable in the circumstances.

## **2. Attendance of the Preliminary Meeting**

Thank you for your invitation to the Preliminary Meeting on the 22<sup>nd</sup> October 2024. Natural England will not be attending but hope this letter will suffice in providing our input into this meeting.

## **3. Accompanied Site Inspections (ASI)**

Natural England does not plan to attend any site inspections, noting we are not permitted to provide advice during these visits.

## **4. Compulsory Acquisition Hearings (CAH)**

Natural England does not plan to attend any Compulsory Acquisition Hearings, as these fall outside of our remit.

## **5. Issue Specific Hearings (ISH)**

Natural England will only attend hearings by exception, targeting those ISH that have the greatest likelihood of resolving significant environmental risks. In such instances our attendance will be virtual. We highlight that where Natural England does not attend hearings, this should not be construed as a lack of concern on outstanding issues, as opposed to the likelihood of these being resolved.

Natural England would be pleased to respond to any questions from the ExA that arise from the hearings at a subsequent deadline.

As regards the first set of hearings, to date we are not aware of any significant progression of key issues since the submission of our combined Relevant Representations and Written Representations, and we are not aware of any new information from the Applicant that is proposed to be discussed in the initial hearings. Therefore, we will not be attending ISH 1.

## **6. Engagement with the Applicant**

During the Examination Natural England will, where possible, engage with the Applicant to ensure issues are progressed. Due to the timing implications of multiple OWF Examinations, Natural England will focus our engagement on key issues where the proposals are being amended in response to concerns, or where new or updated assessments present an opportunity for issue resolution.

## **7. Statement of Common Ground (SoCG), Principal Areas of Disagreement Summary Statement (PADSS), and other progress tracking documents**

Natural England will submit our own Risk and Issues log at Deadline 1, and updates to the log will be provided at all subsequent Deadlines. This will include any relevant points regarding ongoing engagement with the Applicant. A PADSS was submitted as part of our Relevant and Written Representations on 6<sup>th</sup> September 2024, and we will provide an updated PADSS at Deadline 4. We hope these will be of assistance to the ExA in understanding Natural England's current outstanding issues and on demonstrating progress on issue resolution.

Natural England notes the provision of a SoCG is requested by ExA at Deadlines 1 and 4, with the final SoCG requested at Deadline 7. Natural England has advised the Applicant that we will not engage in the production of a SoCG at Deadlines 1 and 4, in favour of focusing on issue resolution. Our position on the SoCG not being bilateral will be made clear within our corresponding deadline response cover letter. Natural England has advised the Applicant to develop and maintain a draft SoCG based on our R&I log and PADSS, which NE will agree at the final SoCG deadline.

## **8. Response to Deadlines**

Throughout the Examination it is anticipated that many documents will be submitted and published on the PINS website. Natural England will screen all documents; however, we will only conduct

detailed review and provide feedback on documents deemed relevant to our statutory function and the issues we have raised. We will advise the ExA in writing at each Deadline of which documents we have reviewed. If there is a document Natural England has not reviewed that the ExA wishes to have our advice on, then please inform us as soon as possible and we will endeavour to review ahead of the next Deadline or advise at which Deadline comments can be expected. Any documents not listed within our Deadline responses should be assumed to have not undergone detailed review by Natural England.

### **9. Submission of Additional Information**

Provision of large amounts of new or updated information during the Examination presents major challenges for consultees, particularly when engaged with multiple overlapping cases. Whilst Natural England will always make best endeavours to respond to submissions in a timely fashion, it cannot be guaranteed that all documents submitted will be reviewed by the following Deadline. Regularly updated information from the Applicant regarding the predicted submissions and arrival times can help manage this to some extent and we encourage the ExA to seek this.

Furthermore, Natural England will not provide a response to documents allowed to be submitted into Examination 'between' Deadlines. Should there be documents submitted between Deadlines, we suggest these are issued at the next appropriate Deadline, and we will respond at the following Deadline, or if time does not allow the subsequent Deadline.

### **10. Comments on our Relevant and Written Representations, Applicant's Commitments and Submissions of other parties**

We highlight that Natural England does not intend to comment on any direct responses by the Applicant or other IPs on our Relevant and Written representations.

Natural England advises that it is necessary for the Applicant to reflect any additional commitments in updated Named Plans, Technical Notes, DCO/dML conditions etc., and where appropriate Environmental Statement (ES) chapters. These documents provide a clear audit trail of commitments through the Examination that is readily available in the post consent phase and will be the focus of our review and written submissions at each Deadline. Should these documents not be updated, Natural England has concerns that any responses and commitments made by the Applicant are unlikely to be translated effectively into the post consent phases.

More generally, Natural England will not respond on the submissions of other parties unless we become aware of a fundamental point of clarity which is required. Our focus will be on providing advice under our remit on nature conservation concerns, rather than advising on the merits of the submissions of others.

### **11. Report on the Implications for European Sites (RIES)**

Natural England notes that only submissions up to Deadline 5 will be considered in the RIES. As a result, the RIES will not take account of updated advice on various Habitats Regulations Assessments (HRA) aspects beyond that point. Natural England recommends that the RIES is updated before it is included alongside the ExA report to the Secretary of State (SoS), so that a full account of the Examination's consideration of HRA matters is presented in one place.

Nevertheless, as previously advised to PINS and BEIS, Natural England does not consider consultation on the RIES adequately discharges the statutory requirement to consult Natural England on Appropriate Assessments.

### **12. Draft Examination Timetable**

#### Deadline 2

Deadline 2 is currently scheduled for 22<sup>nd</sup> November 2024. This only allows two weeks to review material submitted by the Applicant at Deadline 1. We highlight that if a large volume of updated/additional documents are submitted at Deadline 1, we may have to defer responses for some thematic areas to Deadline 3.

### Deadline 3

Deadline 3 is currently scheduled for 6<sup>th</sup> January 2025. This will be the first day back after the Christmas break for many people. Further, we understand that the Applicant intends to submit their updated ornithology assessments at Deadline 2, which will require significant time to review, and the first set of Examiner's Questions are also due to be published on 9<sup>th</sup> December 2024 for comment at Deadline 3.

In addition, Deadline 5 for Five Estuaries and Morgan offshore wind farms (OWF) are also w/c 6<sup>th</sup> January 2025 and Morgan, Morecambe and Outer Dowsing also have deadlines in December. This will reduce our ability to frontload resource prior to the Christmas break.

We therefore kindly request that the ExA considers moving Deadline 3 to 13<sup>th</sup> January 2025. Otherwise, and even with an extension, there is a risk the response to some thematic areas will be deferred to Deadline 4.

### ISH

We highlight that ISH for both Dogger Bank South and Five Estuaries OWFs are scheduled for w/c 20<sup>th</sup> January 2025.

### Deadline 4

Deadline 4 for Dogger Bank South is 3<sup>rd</sup> February 2025. This is the same day as Deadline 4 for Outer Dowsing. Both of these projects require substantial updates to ornithology and benthic assessments during the Examination, we therefore may not be able to facilitate responding to both thematic areas for both projects at this Deadline and suggest that the PINS teams for these cases liaise to explore potentially adjusting one of these Deadlines by a couple of days to assist Interested Parties (IPs) involved in both Examinations.

### Deadline 7

Deadline 7 (16<sup>th</sup> April 2025) is a midday deadline and only allows four working days from Deadline 6 (9<sup>th</sup> April 2025). Both of these deadlines also fall within the school Easter holidays (7-21<sup>st</sup> April 2025). These deadlines will likely require submission of a large volume of material and/or time intensive submissions (e.g. IP final positions), we therefore request that Deadline 7 is extended to midnight of 16<sup>th</sup> April 2025, or ideally to midnight 17<sup>th</sup> April 2025.

We hope these comments assist the ExA at the Preliminary Hearing. For any queries relating to the content of this letter please contact me using the details provided below.

Yours sincerely,

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